

ORDINANCE 318

AN ORDINANCE OF THE COMMON COUNCIL OF ELKINS, WEST VIRGINIA AMENDING SECTIONS OF CITY CODE, CHAPTER 152: ZONING REGARDING SIGN REGULATIONS IN THE CENTRAL BUSINESS DISTRICT

WHEREAS, the Common Council previously adopted a zoning ordinance which is codified in City Code Chapter 152: Zoning; and

WHEREAS, following the enactment of the zoning ordinance there have been several instances where the imposition of the Sections of Chapter 152: Zoning regarding sign regulations in the Central Business District has proven problematic in their application; and

WHEREAS the Elkins Planning Commission has met and reviewed the instances where sign permits cannot be issued in the Central Business District because of certain sign regulations which are apply to the Central Business District; and

WHEREAS, the Elkins Planning Commission has passed Resolution #1-2023, pursuant to City Code §152.04, recommending to the Common Council that certain designated Sections of Chapter 152: Zoning only regarding sign regulations in the Central Business District be amended (See attached); and

WHEREAS, it appears that the Elkins Planning Commission has passed this Resolution in furtherance of its authority and responsibilities to advise Council of any proposed amendments to Chapter 152: Zoning; and

WHEREAS, the Common Council has determined that by accepting the recommendation of the Elkins Planning Commission it is in the best interest of the citizens of the City.

NOW THEREFORE BE IT ORDAINED and ENACTED by the Common Council that City Code, Chapter 152: Zoning be amended as to the Sections set forth herein and shall now read as follows:

Section 152.224 General Requirements.

- (A) All signs must conform to federal and state law, including but not limited to the Building Code and W. Va. Code St. R. § 157-6-7, Requirements for Outdoor Advertising on the State Highway System. Where this code and federal or state law govern signage, the strictest provisions shall apply.
- (B) Signs erected by the City of Elkins for governmental purposes are not subject to this Article.
- (C) *Setback and placement.* Except as otherwise expressly permitted herein, all freestanding signs and flagpoles shall be set back from any public right-of-way at least the height of the sign or flagpole. Electronic message displays shall be placed perpendicular to residential structures where possible and shall comply with Federal Communications Commission regulations, including the avoidance of harmful interference with radio frequencies.

(D) *Illumination.* The purpose of the following provisions regulating signage lighting is to ensure that signs are lighted in such a manner as to maintain aesthetic consistency with signs already existing in the City and to ensure the safety of drivers and pedestrians, while also ensuring that signs are adequately able to convey sign messages.

(1) Definitions.

“Candela” means the basic unit of measurement of light in SI (metric) units.

“Candela per square meter (cd/m²)” means the SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.

“Nit” means a photometric unit of measurement referring to luminance. One nit is equal to one cd/m².

“SI (International System of Units)” means the modern metric system of measurement, abbreviated SI for the French term “Le Systeme International d’Unites.”

(2) Signs may be backlit, internally lighted, or indirectly lighted. All external sign lighting shall have lighting fixtures or luminaires that are fully shielded.

(3) Temporary signs shall not be lighted.

(4) Signs that are illuminated at night may not exceed a maximum luminance level of seven hundred and fifty (750) cd/m² or Nits, regardless of the method of illumination, at least one-half hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, as determined by NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions.

(5) The maximum luminance during daylight conditions, between Apparent Sunrise and one-half hour before Apparent Sunset, shall be ten thousand (10,000) cd/m² or Nits.

(E) *Maximum height measurements.* ~~Wall signs and other~~ Signs with sign structures not affixed to the ground are measured from the lowest attached component of the sign to the highest attached component of the sign. The height of signs with sign structures affixed to the ground is measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign, subject to limitations in this Article. Normal grade is the lower of:

(1) Existing grade prior to construction; or

(2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of mounting or elevating the sign.

- (i) *Wall signs*
 - (1) Wall signs larger than one hundred (100) square feet shall provide as part of permit application:
 - (a) Express permission from the operator and/or owner of the building;
 - (b) The name and address of the person applying the wall sign; and
 - (c) A clear drawing of the proposed wall sign including dimensions and location.

~~(2) Wall signs larger than one hundred (100) square feet are subject to the design review standard in subsection (j).~~

- ~~(j) *Design review standards for signs.* Design review standards shall apply to wall signs in excess of one hundred (100) square feet. The Board of Zoning Appeals shall issue permits for signs subject to design review in accordance with Section 21-12, except that the Board of Zoning Appeals shall issue a determination within forty (40) business days. In determining whether a sign is compatible with the theme and overall character to be achieved in each zoning district, the Board of Zoning Appeals shall base its compatibility determination on the following criteria:~~

- ~~(1) The relationship of the scale and placement of the sign to the building or premises on which it is to be displayed.~~
- ~~(2) The relationship of the colors of the sign to the colors of adjacent buildings and nearby signs.~~
- ~~(3) The similarity or dissimilarity of the sign's size and shape to the size and shape of other signs in the area.~~
- ~~(4) The similarity or dissimilarity of the style of lettering or number of words on the sign to the style of lettering or number of words of nearby signs.~~
- ~~(5) The compatibility of the type of illumination, if any, with the type of illumination in the area.~~
- ~~(6) The compatibility of the materials used in the construction of the sign with the materials used in the construction of other signs in the area.~~

Section 152.230 Signs for Central Business District .

(A) *Purpose.* Signage in commercial and districts is allowed to a somewhat greater extent, while maintaining proportion to the size and scope of uses typically present. However, even these more intensive uses in smaller communities are limited in signage to some degree in order to maintain small-town character and limit visual distraction by signage.

- (1) Permitted sign use as accessory to dwellings shall be the same as for Section 21-129.
- (2) *Signs permitted as accessory to non-dwellings.*
 - (a) Permitted permanent sign use as accessory to non-dwellings: A-frame, awning, canopy, chalkboard, freestanding, geological, marquee, minor, monument, neon, projecting, temporary, topiary, wall, and window signs.

Only one (1) of each is permitted per use per frontage, except wall signs and window signs. More than two hundred (200) square feet of frontage is required for a use to have more than one (1) pole sign. No more than six (6) permanent signs are permitted by right per use.

(b) Permitted temporary signs as accessory to non-dwellings: A-frame, banner, chalkboard, minor, person-assisted, wall, wicket, window. No more than six (6) temporary signs are permitted in one calendar year per use.

(c) No more than three (3) flags as accessory to a non-dwelling are permitted.

(3) Off-premises signs are prohibited.

(B) *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Freestanding, Monument	Wall Signs	All Other Signs	Temporary Signs	Flags
Max. area for signs less than 40 feet above grade	1 sq. ft. per 1 ft. of lineal frontage, not to exceed 32 sq. ft.	No maximum	0.5 sq. ft. per 1 ft. of lineal frontage, not to exceed 24 sq. ft.	6 sq. ft. displayed at one time	60 sq. ft. ea.
Max. height for signs less than 40 feet above grade	8 ft.	No maximum	4 ft.	4 ft.	40 ft.
Max. area for signs 40 feet or higher above grade	n/a	No maximum	200 sq. feet	100 sq. ft. displayed at one time	60 sq. ft. ea.
Max. height for signs 40 feet or higher above grade	n/a	No maximum	No maximum	No maximum	No maximum

The amendments to Chapter 152: Zoning are only to the sections referred to herein and all other sections of said Chapter shall remain in full force and effect.

If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

This Ordinance shall become effective upon passage.

PASSED AND APPROVED ON THE FIRST READING: July 20, 2023.

PASSED AND APPROVED ON THE SECOND AND FINAL READING: August 17, 2023.

CITY OF ELKINS, WEST VIRGINIA

Jerry A. Marco, Mayor

Attest:

Sutton Stokes, City Clerk